

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
INLAND DESERT REGION
3602 INLAND EMPIRE BOULEVARD, SUITE C-220
ONTARIO, CA 91764



AMENDMENT NO. 1
(A Minor Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2021-092-06
San Bernardino Valley Municipal Water District
Santa Ana River Enhanced Recharge 1B Project in San Bernardino County

INTRODUCTION

On March 1, 2023, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2021-092-06 (ITP) to San Bernardino Valley Municipal Water District (Permittee), authorizing take of San Bernardino Kangaroo Rat (*Dipodomys merriami parvus*) (Covered Species) associated with and incidental to the Santa Ana River Enhanced Recharge 1B Project in San Bernardino County, California (Project). The Project as described in the ITP as originally issued by CDFW includes the construction of 18 new groundwater recharge basins, improvements and extension of existing man-made earthen channels, and improvements to existing man-made recharge basins. In issuing the ITP, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate Project impacts of the taking on the Covered Species and that issuance of the ITP would not jeopardize the continued existence of the Covered Species.

The Permittee made CDFW aware of a potential minor amendment on June 13, 2023. During this meeting the Permittee described the overflow of water in the existing northern groundwater recharge basins due to the increased rain this past year and described how the proposed channel will allow water to flow into an existing southern groundwater recharge basin. The Permittee requested an amendment to the ITP due to the presence and potential impacts to San Bernardino kangaroo rat.

This Minor Amendment No. 1 (Amendment) makes the following changes to the existing ITP:

First, this Amendment adds to the project description and project footprint and allows for the construction of a new channel which will convey flow between two existing groundwater recharge basins. This Project is located southeast of the existing Project site and will occur in two phases.

AMENDMENT

The ITP is amended as follows (amended language in ***bold italics***; deleted language in ~~strikethrough~~):

From page 2 of the original ITP:

IV. Project Description:

The Project includes the construction of new groundwater recharge basins, improvements and extension of the existing man-made earthen channel, ***the construction of a new channel connecting two existing groundwater recharge basins***, and improvements to the existing, man-made recharge basins located north and east of Cone Camp Road, as described below. Project activities consist of the removal, repair, and construction of inter-recharge basin connections, construction of culverts, low water crossings, drop structures, diversion structures, energy dissipator structures, and dirt access roads. Activities will also include ingress and egress of the Project site (Figure 2, grading of the entire Project site, excavation and trench digging, and stabilization/reinforcement of the basins. Construction equipment includes track excavators, D4 dozers, water trucks, water tankers, small backhoes, rock trucks, and sheepsfoot compactors.

The project will occur in three phases over the course of 24 months as follows:

- Phase 1 will include the construction of the A basins
- Phase 2 will include the construction of the northern B basins
- Phase 3 will include the construction of the channel and southern B basins
- ***Phase 4A and 4B will include the construction of a new channel near the existing recharge basins***

The above phases are summarized in Figure 1.

More specifically, the project proposes to construct the following:

1. Earthen channels. An existing channel will be widened, deepened, and reinforced (~ 21 feet). A new channel will be constructed from the end of the existing channel to about 1,200 feet west of the existing East Branch Extension and inland feeder pipelines. This new channel will be 12 feet wide and include an emergency overflow constructed at the very western extent of the channel. ***An additional earthen channel will be constructed between existing basin 13 and the Cone Camp Basins. The channel will be about 20 – 30 feet wide while the length will be about 270 feet. Eighty feet of the total length will occur within an inundated area of one existing basin, while 40 feet will be constructed under existing dirt roads, and the remaining 150 feet will occur in upland habitat. A concrete box with steel plates will be placed on top of the section of the channel proposed under the southern road to act as a***

vehicular bridge and will be topped with native substrate after construction is completed. Channels will be constructed with reinforced concrete drop structures (10) to achieve desired channel slopes. Most drop structures will include new reinforced concrete diversion structures to divert flows into the recharge basins from the main channel.

All terms and conditions of the ITP and MMRP that are not expressly amended herein remain in effect and must be implemented and adhered to by the Permittee.

FINDINGS

Issuance of this Amendment will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this Amendment increase other Project impacts on the Covered Species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).

Discussion: This Amendment makes one specific change to the ITP as originally issued. This includes an addition to the project description to include the construction of a channel which will connect two existing recharge basins. Construction will occur southeast of the larger project site. The resulting impacts to the Covered Species, however, including the timing, number of acres of habitat that will be lost as a result of the Project, will remain the same.

CDFW has determined that changes to the project description will not increase the amount of take or the severity of other impacts of the taking on the Covered Species. Given the circumstances of this Project, CDFW believes that the changes to the Project or Conditions of the ITP described in this Amendment will not increase impacts to the Covered Species.

Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

Discussion: CDFW determined in February 2023 that the Project, as approved, met the standards for issuance of an ITP under CESA. This determination included findings that, among other things, the impacts of the taking would be minimized and fully mitigated and that the Project would not jeopardize the continued existence of the Covered Species. Those findings are unchanged with respect to this Amendment because the Project and ITP as amended: (1) will have no effect on the amount or severity of Project impacts on the Covered Species, as discussed above, and (2) does not alter the measures that will be undertaken to minimize and mitigate previously authorized impacts on the Covered Species. Permittee's continued adherence to and implementation of the avoidance and

minimization measures set forth in the ITP's Conditions of Approval and MMRP will minimize and fully mitigate impacts of the taking on the Covered Species.

None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Amendment.

Discussion: CDFW issued the ITP in February 2023 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) After, among other things, considering the environmental impact report adopted by the San Bernardino Valley Municipal Water District as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment is a minor change to the original ITP. CDFW finds for the same reasons under CEQA that approval of the Amendment will not result in and does not have the potential to create any new significant or substantially more severe environmental effects than previously analyzed and disclosed by the San Bernardino Valley Municipal Water District during its lead agency review of the Project, particularly with respect to the impacts authorized by CDFW pursuant to the ITP as amended. As a result, CDFW finds that no additional subsequent or supplemental environmental review is required by CEQA as part of CDFW's approval of this Amendment.

CDFW finds that this Amendment is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

Discussion: This Amendment adds to the project description and allows for the construction of a new earthen channel that will connect two existing recharge basins. These changes to the ITP will not: (1) significantly increase the level of take or other Project impacts on Covered Species previously analyzed and authorized by the ITP, (2) affect Permittee's substantive mitigation obligations under the ITP, (3) require further environmental review under CEQA, or (4) increase temporal impacts on the Covered Species. Therefore, this Amendment will not significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP. CDFW has determined that the change to the ITP constitutes a Minor Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

The authorization provided by this Amendment is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of this Amendment by registered first class mail to CDFW at:

Department of Fish and Wildlife

Minor Amendment No. 1
Incidental Take Permit 2081-2021-092-06
SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT
Santa Ana River Enhanced Recharge 1B Project

Habitat Conservation Planning Branch
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, CA 94244-2090

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 7/14/2023

DocuSigned by:

Heidi Calvert
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Heidi Calvert
Regional Manager
Inland Deserts Region

ACKNOWLEDGMENT

The undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of the original ITP and this Amendment, and (3) agrees on behalf of the Permittee to comply with all terms and conditions of the ITP as amended.

By: _____ Date: _____

Printed Name: _____ Title: _____

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